

Mar 27, 2020

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MIGUEL NAVARRETE,

Defendant.

No. 1:19-CR-02058-SMJ-1

ORDER DENYING DEFENDANT'S
MOTION TO REOPEN
DETENTION HEARING

ECF No. 86

Before the Court is Defendant's Motion to Reopen Detention Hearing to Consider Conditions of Release (ECF Nos. 86-87). The United States opposes the Motion. On March 27, 2020, the Court reopened the detention hearing to consider Defendant's proffers and the arguments of counsel. 18 U.S.C. § 3142(f). Defendant appeared, by video from the Yakima County Jail, with court-appointed counsel Defender Troy Lee, who appeared by video. Assistant United States Attorney Patrick Cashman represented the United States by video.

Defendant consented to conduct the hearing by video.

1 Because Defendant initially waived his right to a detention hearing (ECF
2 No. 42), the Court treats this as an initial detention hearing. The Court has
3 considered the parties' briefing and supporting materials (ECF Nos. 86-87, 97), the
4 pretrial services reports (ECF Nos. 16, 37, 88), and the proffers and arguments of
5 the parties, and has evaluated the four factors outlined in 18 U.S.C. § 3142(g) to
6 decide whether there were conditions of release that would reasonably assure
7 Defendant's appearance in court and the safety of the community: (1) the nature
8 and circumstances of the offense; (2) the weight of evidence against Defendant; (3)
9 the history and characteristics of Defendant; and (4) the nature and seriousness of
10 the danger Defendant would present to the community if released. The Court finds
11 that these factors, as set forth orally by the Court, weigh in favor of Defendant's
12 detention.

13 Defendant is charged with carjacking. The United States proffered that, on
14 or about July 31, 2019, Defendant and five other individuals forcibly and violently
15 took a vehicle from a victim; that Defendant and his co-defendants forced the
16 victim out of the vehicle and assaulted the victim; that one of the co-defendants
17 brandished a firearm during the altercation; and that the individuals stripped the
18 victim of his shoes and cell-phone and exited the scene in various vehicles,
19 including the victim's vehicle. The allegations against Defendant are serious and
20 the combination of violence and the presence of a firearm, particularly in light of

1 Defendant's history of gang-related violence and weapons-related offenses, is
2 indicative of potential danger for the community and risk of nonappearance if
3 Defendant were to be released.

4 The weight of the evidence is the least important factor and Defendant is
5 entitled to a presumption of innocence. Based on the United States' proffer, which
6 included statements made by the identified victim and others, the case has
7 sufficient weight to give the Court concern as to Defendant's dangerousness and
8 risk of nonappearance.

9 Turning to his history and characteristics, Defendant is 28 years old and was
10 born in Prosser, Washington. He has resided in the District his entire life and has
11 substantial contacts here. His mother, father, and siblings reside in the District and
12 he has contact with them often. His wife of six years resides in Prosser with their
13 five young children. His three children from a prior relationship reside in the
14 District and he has contact with them monthly. He has a limited documented work
15 history; he reports working sporadically (a few months at a time) at a dairy farm,
16 which he has done since he was young. If released, Defendant proposes residing
17 with his sister-in-law, who has no criminal history.

18 Defendant's criminal history is extensive, dating back to when he was 13
19 years old, and includes multiple violent and gang-related offenses. He was
20 convicted of drive by shootings in 2008 and 2019, convicted of unlawfully

1 possessing firearms in 2007 (stolen firearm), 2008, 2009 (two convictions), 2011,
2 and 2014 (with additional conviction for aiming and discharging firearm), and has
3 a pending charge for a controlled substance violation (September 2019).

4 Numerous additional firearm and assault with deadly weapon charges have been
5 dismissed. He has had negative interactions with law enforcement from a young
6 age (convicted of obstructing a law enforcement officer in 2013 and 2018, charged
7 with the same in 2006), and has demonstrated routine noncompliance with court-
8 imposed conditions (six failures to comply). Defendant has failed to appear for
9 hearings over 30 times (not including when he was in prison or when he was
10 hospitalized), including 13 times in one case and has failures to appear as recent as
11 September 2018. He has failed to surrender for service of an imposed sentence
12 twice (2013 and 2018). Additionally, Defendant has engaged in new criminal
13 activity while charges are pending. On this record, the Court is insufficiently
14 assured that Defendant will continue to appear at court hearings and abide by any
15 conditions it sets. Defendant's proposed release plan does not adequately alleviate
16 the Court's concerns.

17 The Court finds that the United States has met its burden to show by clear
18 and convincing evidence that there are no conditions or combination of conditions
19 other than detention that will reasonably assure the safety of the community, and
20

1 by a preponderance of the evidence that there are no conditions or combination of
2 conditions that will reasonably assure the appearance of Defendant as required.

3 Accordingly; **IT IS HEREBY ORDERED:**

4 1. The Motion to Reopen Detention Hearing (**ECF No. 86**) is
5 **DENIED**. Defendant shall remain held in detention pending disposition of this
6 case or until further order of the Court.

7 2. If Defendant seeks review of this Order pursuant to 18 U.S.C. §
8 3145(b), attorney for Defendant shall file a written motion for revocation or
9 amendment of this Order within ten (10) days before the district judge to whom
10 this case is assigned and note it for hearing at the earliest possible date. Both
11 parties are responsible to ensure the motion is determined promptly.

12 DATED March 27, 2020.

13 s/Mary K. Dimke
14 MARY K. DIMKE
15 UNITED STATES MAGISTRATE JUDGE
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